

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

IN RE: *EX PARTE* APPLICATION OF) CASE NO.: 1:19-mc-00405-KS-RHW
LAURA ZÚNIGA CÁCERES, BERTHA)
ZÚNIGA CÁCERES, AND SALVADOR)
ZÚNIGA CÁCERES FOR ASSISTANCE)
BEFORE A FOREIGN TRIBUNAL)
)

APPLICANTS' STATUS UPDATE REGARDING CRIMINAL PROCEEDING IN HONDURAS

Laura Yolanda Zúniga Cáceres, Bertha Isabel Zúniga Cáceres, and Salvador Edgardo Zúniga Cáceres (together, “Applicants”) provide the Court with the instant update regarding the status of the criminal proceedings against David Castillo in Honduras, in which they seek to introduce relevant evidence contained in the mortgage file sought by their Application for Discovery for Use in a Foreign Tribunal Pursuant to 28 U.S.C. § 1782 (Dkt. Nos. 1-2). The subpoenaed documents are currently undergoing *in camera* review by the Court pursuant to its May 18, 2020 Order (Dkt. No. 39). *See also* Dkt. No. 48 (this Court’s June 19, 2020 order denying Respondent motion to stay pending appeal); Dkt. No. 53 (the Court of Appeals’ July 8, 2020 Order dismissing Respondent’s appeal).

The criminal prosecution against Castillo in Honduras has resumed. The Honduran Criminal Appeals Court denied the appeal filed by Castillo and ordered that the lower court resume the preliminary proceedings—which had been suspended by Castillo’s appeal in October

2019—with a hearing on August 21, 2020. Altholz Decl. ¶ 5 (citing Ex. A at 6).¹ *See also* Declaration of Víctor Antonio Fernández Guzmán in Support of Applicants’ Response in Opposition to Motion for Stay Pending Appeal (“Fernández Decl.”; Dkt. No. 46-1) ¶¶ 5, 7, 11 (stating that the criminal proceedings had been suspended in late 2019 due to Castillo’s appeal and that resolution of that appeal was imminent).

On August 26, 2020—a week before the September 2, 2020 expiration of the legal limit on Castillo’s pre-trial preventative detention (Fernández Decl. ¶ 10)—the Magistrate Judge presiding over the pre-trial phase of the murder prosecution in Honduras issued an Order to Open Trial (Auto de Apertura a Juicio). Altholz Decl. ¶ 6 (citing Ex. A at 1, 11-12). After finding that there was sufficient evidence to proceed to trial, the Magistrate Judge closed the “intermediate” stage of the prosecution, ordered Castillo to stand trial for the crime of murder, and referred his case to the Trial Court. *Id.* (citing Ex. A at 8, 11-12).

The Magistrate Judge further ordered the parties to appear before the Trial Court within five calendar days from notice of the Order to Open Trial. Altholz Decl. ¶ 7 (citing Ex. A at 12). Additionally, the Magistrate Judge ordered the transfer of Castillo’s criminal file to the Trial Court within 48 hours in accordance with Article 303 of the Honduran Code of Criminal Procedure. *Id.* (citing Ex. A at 12).

Pursuant to Articles 316 and 317 of the Honduran Code of Criminal Procedure, a key pre-trial evidentiary hearing in Castillo’s murder prosecution will likely take place within the next

¹ “Altholz Decl.” refers to the Declaration of Roxanna Altholz submitted concurrently herewith.

four to six weeks. Altholz Decl. ¶ 8. At that hearing, the Trial Court will determine what evidence will be presented at trial.

Dated: September 4, 2020

Respectfully submitted,

By: /s/ Amelia S. McGowan
Amelia S. McGowan

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